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HUMAN RIGHTS QUESTIONS

Letter dated 5 September 1991 from the Permanent Representative of Peru to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the text of Legislative Decree No. 685 issued on 3 September 1991 whereby prosecutors within zones in which states of emergency have been declared are authorized to enter police stations, prefectures, military installations and any other detention centre in the Republic in order to verify the status of persons arrested or reported as disappeared.

This legal instrument reflects the ineluctable duty and commitment of the Peruvian State to guarantee the full and effective exercise of human rights in accordance with the provisions of article 80 of the Political Constitution of Peru.

I should be grateful if you would have the text of the Legislative Decree circulated as an official document of the General Assembly under item 99 of the provisional agenda.

(Signed) Ricardo V. LUNA
Ambassador
Permanent Representative of Peru
to the United Nations

* A/46/150.

ANNEX

LEGISLATIVE DECREE NO. 685

THE PRESIDENT OF THE REPUBLIC,

WHEREAS:

The Congress of the Republic, pursuant to Act No. 25327, adopted in accordance with article No. 188 of the Political Constitution of Peru, has delegated authority to the Executive to legislate, inter alia, on the promotion of peace in the country;

It is the duty of the State to guarantee the full and effective exercise of human rights, in accordance with the provisions of article 80 of the Political Constitution of Peru;

The Office of the Attorney-General is an autonomous State agency whose principal functions are to defend the legal basis of the rights of the citizen and the public interest;

Article 8 of the Organization Act of the Office of the Attorney-General - Legislative Decree No. 52 - provides that the declaration by the President of the Republic of states of emergency or siege throughout or in part of the national territory shall not impede the functions of the Office of the Attorney-General as the defender of the people or the right of citizens to have recourse thereto;

It is necessary, for the reasons stated, for the Office of the Attorney-General to have at its disposal a legal instrument enabling prosecutors throughout the country to enter police detention centres, military installations or any other place of imprisonment used in connection with arrests in the fight against terrorism;

With the concurring vote of the Council of Ministers;

Has issued the following Legislative Decree:

Article 1: Prosecutors within zones in which states of emergency have been declared are authorized to enter police stations, prefectures, military installations and any other detention centre in the Republic in order to verify the status of persons arrested or reported as disappeared.

Article 2: The Ministries of the Interior and of Defence shall adopt the measures necessary to grant appropriate facilities and guarantees to prosecutors in compliance with this Decree.

Article 3: Any instance of failure to comply with this instrument shall be brought to the attention of the appropriate chief prosecutor and president of the district bar association, who, in turn, shall inform the Attorney-General of the Nation, who shall take appropriate action in accordance with his authority.

Article 4: Provincial prosecutors shall submit monthly reports on the human rights situation in their district, which shall be forwarded to the Office of the Attorney-General of the Nation.

Article 5: The Office of the Attorney-General of the Nation shall issue a monthly report on the human rights situation containing the information submitted by prosecutors throughout the country.

Article 6: All provisions which are inconsistent with this Legislative Decree are hereby abrogated.

Article 7: This Legislative Decree shall enter into force on the day following the date of its issuance;

ACCORDINGLY:

Orders the issuance of this Legislative Decree and compliance therewith, and that the Congress be informed thereof.

Done at Government House, Lima, on 2 September 1991.

Signed: ALBERTO FUJIMORO FUJIMORO, Constitutional President of the Republic.

CARLOS TORRES Y TORRES LARA, President of the Council of Ministers and Minister for Foreign Affairs.

AUGUSTO ANTONIOLI VASQUEZ, Minister of Justice.